

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** Middle States Commission on Secondary Schools
(2004/2006)

(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)

2. **Action Item:** Petition for Continued Recognition

3. **Current Scope of Recognition:** The accreditation of institutions with postsecondary, non-degree granting career and technology programs in Delaware, Maryland, New Jersey, New York, Pennsylvania, the Commonwealth of Puerto Rico, the District of Columbia, and the U.S. Virgin Islands to include the accreditation of postsecondary, non-degree granting institutions that offer all or part of their educational programs via distance education modalities.

4. **Requested Scope of Recognition:** N/A

5. **Date of Advisory Committee Meeting:** June, 2012

6. **Staff Recommendation:** Continue the agency's recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified in below.

7. **Issues or Problems:** • The agency must demonstrate that it has sufficient financial resources to perform its accreditation functions. [602.15(a)(1)]

• The agency must provide documentation of its requirement (as stated in the narrative) regarding minimum degree or certification requirements for faculty. [602.16(a)(1)(iii)]

- The agency must provide documentation of its effective review of an institution's compliance with its new student services standard to demonstrate its evaluation of an institution's recruitment practices. . [602.16(a)(1)(vii)]

- The agency must provide evidence that has an effectively assessed an institution's record of student complaints. [602.16(a)(1)(ix)]

- The agency must provide documentation that verifies that it has reviewed an institution for which it is the primary accreditor to evaluate its record of compliance with obligations under Title IV, including loan default rate data, and the results of financial or compliance audits and program reviews. [602.16(a)(1)(x)]

- The agency must, if it wishes to include correspondence education in its scope, provide information about how its standards should be applied in the evaluation of correspondence education (such as specific indicators or other guidance), such as it has for distance education. It must also provide documentation of its effective review of an institution's distance education (and correspondence education) offerings to determine whether they meet the agency's standards. [602.16(b)(c)]

- The agency must provide documentation demonstrating that it provides guidance to the institution on the requirements of this section and its expectation for compliance, and that it reviews the processes its institutions that offer distance education or correspondence education (if the agency wants to have correspondence education included in its scope) have in place to verify student identity. [602.17(g)]

- The agency must provide further information and documentation regarding its analysis of the information it collects through its monitoring and the follow-up actions it takes. [602.19(b)]

- The agency must develop a policy (and procedures) that clearly requires it to monitor growth, by program, at institutions it has identified as having significant growth, and that defines what constitutes "significant growth". In addition, it needs to provide documentation of its effective application of its policy. [602.19(d)]

- The agency must provide documentation showing that the agency has taken timely adverse action, including the outcome. [602.20(a)]

- The agency must amend its policy to include information about the duration of a good cause extension, whether an additional extension might be granted, and the circumstances under which it would be granted, and indicate its expectations regarding the frequency of extensions for good cause. [602.20(b)]

- The agency must provide documentation demonstrating that the Commission requires institutions to obtain its approval of a substantive change before the agency includes the change in the institution's grant of accreditation. [602.22(a)(1)]
- The agency must provide documentation to verify the process for review and approval of a variety of substantive change types to demonstrate compliance with this section. [602.22(a)(2)(i-vii)]
- The agency must amend its policy to include all the types of substantive change in paragraphs ix-x and provide documentation to verify the process for review and approval of the substantive change types included within this section, or indicate that it has not had the opportunity to apply its amended policy for these types of substantive change. [602.22(a)(2)(ix-x)]
- The agency must clearly define in its substantive change policy under what conditions/situations it would require an institution to undergo a new comprehensive evaluation and provide documentation of its application of its policy. [602.22(a)(3)]
- The agency must provide documentation of its approval of substantive changes upon issuance of an approval letter. [602.22(b)]
- The agency must provide documentation demonstrating its review and approval of an institution's fiscal and administrative capacity to operate an additional location. [602.22(c)]
- The agency must provide documentation to verify its application of its compliant policy regarding conducting a site visit to an additional location within six months. [602.22(c)(1)]
- The agency must provide additional information, in the form of an amended policies or procedures, about what it considers to be a reasonable interval and the criteria it uses to determine which locations to visit with an institution has three or more additional locations. It must also provide documentation of its on-site review of a representative sample of additional locations. [602.22(c)(2)]
- The agency must define rapid growth and explain how it monitors its institutions for rapid growth and provides guidance to its institutions on how to stay in compliance with this requirement. [602.22(c)(3)]
- The agency must provide documentation, such as site visit reports, to demonstrate its site teams' effective review of an additional location in accordance with its policy. [602.22(d)]
- The agency must provide complete documentation of its review of a

complaint, including the written notifications to the institution and complainant throughout the process, and the resolution. [602.23(c)]

- The agency must provide documentation demonstrating its application of this public disclosure requirement. [602.23(d)]

- The agency must amend its policy to provide for public correction regarding the contents of site visit reports and the agency's accrediting actions with respect to the institution. It must also provide documentation of its application of its disclosure policy or indicate that it has not had an opportunity to apply its policy. [602.23(e)]

- The agency must demonstrate its effective application of its branch campus policies and procedures. [602.24(a)]

- The agency must demonstrate its effective application of its change in ownership policies and procedures. [602.24(b)]

- The agency must amend its policies on teach-out plans to require an institution it accredits to submit a teach-out plan for approval upon the occurrence of the specific events included in subsections i-iv of this criterion. [602.24(c)(1)]

- The agency must provide a review process that includes criteria by which it will assess and determine that a teach-out plan provides for the equitable treatment of students and on what basis it determines, for example, that the teach out plan for notifications and additional charges are appropriate and reasonable. It also needs to provide documentation of the application of its policy, such as a sample teach-out plan/agreement that the agency has reviewed, or state that it has not had cause to review any teach-out plans/agreements. [602.24(c)(2)]

- The agency must amend its policy to include that it will notify another accrediting agency should the agency approve a teach-out plan that includes an institution that is accredited by another agency. [602.24(c)(3)]

- The agency must demonstrate that it has and applies criteria that it has identified to be effective indicators for assessing that a teach-out institution meets the quality parameters identified in this criterion. [602.24(c)(5)]

- The agency must amend its policies to include that if an institution the agency accredited closes without a teach-out plan or agreement, the agency will work with the Department and the appropriate States agency to assist students in finding reasonable opportunities to complete their education without additional charge. [602.24(d)]

- The agency must provide documentation that it confirms that the

institution has transfer of credit policies that are publicly disclosed and that include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education, and a list of the institutions with which the institution has established articulation agreements. [602.24)e)]

- The agency must document that it has policies and procedures and a mechanism in place to review an institution's policies and procedures for determining credit hours. [602.24(f)(2)]

- The agency must document that it has policies and procedures and a mechanism in place to evaluate the requirements of this section. It must also provide documentation of its review and action it has taken to address identified deficiencies. [602.24(f)(3)]

- The agency must document that it has policies and procedures to notify the Secretary of an institution's systemic noncompliance with the agency's credit hour policies or significant noncompliance regarding one or more programs at the institution. It must also provide documentation of its application of its policy, or indicate it has not had the opportunity to do so. [602.24(f)(4)]

- The agency must provide for a process, in accordance with written procedures, through which an institution may seek review of new financial information when the three conditions specified in this criterion are met. It must also make clear that this is a one-time review and that the agency's determination does not provide a basis for an appeal. [602.25(h)]

- The agency must revise its policies to make them consistent and to include notification to all the entities listed in this criterion of positive actions no later than 30 days after it makes the decision. It must also provide documentation of its application of its policy. [602.26(a)]

- The agency must amend its policies to make clear that it will provide written notice of its negative accrediting decisions to appropriate State licensing or authorizing agencies, and appropriate accrediting agencies at the same time it notifies the institution, within the required timeframe following commission action, and provide documentation of its application of its policy. [602.26(b)]

- The agency must provide documentation of its timely notification to the public of final negative accrediting decisions. [602.26(c)]

- The agency must amend its policies to require it to make available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after a final decision to take adverse action, a brief statement summarizing the reasons for the decision and

the official comments that the affected institution made, or evidence that the institution was offered the opportunity to provide official comment. It must also provide documentation of application of its policies. [602.26(d)]

- The agency must amend its policies to make clear that it will provide written notice of its negative accrediting decisions to appropriate State licensing or authorizing agencies, and appropriate accrediting agencies within the required timeframe, and that it will provide information to the public, upon request. It must also provide documentation of its application of its policies or indicate it has had no occasion to apply its policies. [602.26(e)]

- The agency must amend its policy to include that it will provide the Department with information regarding proposed changes in its policies, procedures or standards. [602.27(a)(1-5)]

- The agency must assure that any policies it has regarding notification to an institution of contact with the Department regarding fraud and abuse of federal funds include the requirements of paragraph (b) of this section. [602.27(a)(6-7)(b)]

- The agency must provide policies and procedures, and documentation of their effective application, for addressing the requirements of this section. [602.28(b)]

- The agency must amend its policy to include all the types of negative actions and the required timeframe for providing an explanation to the Secretary of its decision to grant accreditation to an institution that is subject to a negative action by a State agency or accrediting agency. It must also provide documentation of its application of its policy or indicate it has not had an opportunity to apply it. [602.28(c)]

- The agency must demonstrate that it has written policies directing the agency to promptly review its accreditation of an institution that is the subject of adverse action, or placed on probation or equivalent status, by another accreditor to determine if it should also take an adverse action or place the institution on probation or show cause. It must also provide documentation of its application of its policy. [602.28(d)]

- The agency must amend its policy to make clear that it will, upon request, share information with other accrediting agencies and state approval agencies about the accreditation or preaccreditation status of an institution and any adverse actions it has taken against an accredited or preaccredited institution. [602.28(e)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Middle States Commission on Secondary Schools (MS-CSS) is one of three Commissions of the Middle States Association of Colleges and Schools. Primarily an accreditor of secondary education institutions, the agency also accredits postsecondary, non-degree granting vocational institutions. These postsecondary education institutions provide training in vocational/technical careers within certificated and licensed professions such as automotive technology, computer networking, cosmetology and practical nursing.

The agency's current scope of recognition is for the accreditation of institutions with postsecondary, non-degree granting career and technology programs in Delaware, Maryland, New Jersey, New York, Pennsylvania, the Commonwealth of Puerto Rico, the District of Columbia, and the U.S. Virgin Islands, including those that offer all or part of their educational programs via distance education modalities.

The agency's federal link is the Higher Education Act, Title IV federal student aid program. Therefore, the agency must meet the Secretary's separate and independent requirements.

Currently, the agency accredits fifteen postsecondary non-degree-granting institutions that use its accreditation to establish eligibility for Title IV federal student aid programs.

Recognition History

The Middle States Commission on Secondary Schools was established in 1920. It was first recognized by the Secretary for the accreditation of public vocational-technical schools offering non-degree postsecondary education in 1988 and remained a recognized agency until July 1999 when it requested that its recognition be withdrawn.

The agency submitted a petition again for initial recognition in December 2003, and in 2004 the National Advisory Committee on Institutional Quality and Integrity recommended and the Secretary concurred that the agency be recognized for a two-year period but required it to submit an interim report at its Fall 2006 meeting demonstrating:

- Acceptance of its policies and standards by employers and practitioners.
- That it provides additional guidance to on-site evaluators regarding how to ensure that the performance indicator data submitted during an on-site visit is accurate.
- The collection of sufficient data, including the performance data indicators submitted by schools, to enable the agency to determine that its accredited schools remain in compliance with its standards throughout their period of accreditation.
- Additional specificity regarding the process that it will use on its long-term, comprehensive review and evidence that it conducted ad-hoc reviews and reviews of the standards by institutions and on-site visitors.
- The modification of its Website to state the date that the school will next be reviewed for accreditation.
- The modification of its policy to require it to notify state agencies and other accrediting agencies when the agency makes a final decision to deny, withdraw, suspend, revoke, or terminate the accreditation of an institution.

In December 2006, The National Advisory Committee on Institutional Quality and Integrity reviewed and recommended that the Secretary accept the agency's report.

PART II: SUMMARY OF FINDINGS

§602.15 Administrative and fiscal responsibilities

The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition.

The agency meets this requirement if the agency demonstrates that--

(a) The agency has--

(1) Adequate administrative staff and financial resources to carry out its accrediting responsibilities;

MSA-CSS maintains 11 professional and 9 supporting staff of full time employees including its president. Staffing is adequate to service the number of institutions accredited by this agency. Two staff devotes approximately 20% of their time to the career and technical institutions, which constitute a small portion of the agency's accredited schools. The agency has a clearly defined organizational structure and the documentation describes the relative duties of each staff member. Responsibilities of staff are clearly defined and include all functions and activities expected of recognized accreditation. Vitas reflect that staff has the necessary qualifications and experience to perform their assigned duties.

The agency's budget is sustained through income generated from fees and services from accredited institutions. The agency's budget and audited financial statements document its financial operations and seem to indicate sufficient net assets and unrestricted assets (prior to allocation of Association office revenue and expenses) that should ensure the agency's ability to conduct all of its accrediting responsibilities within the near term. However, when the payment of proportionate share of joint use is factored in, the agency shows a deficit for FY2011 of \$281,429, which is covered by a loan from the Commission on Higher Education based on the memorandum of understanding (Exhibit 15). The memorandum of understanding covers the years FY2010 through FY2013 and limits the total loan amount to \$1.25 million. During FY2010 and FY2011, the loans provided to the Commission on Secondary Schools (\$601,841) and to the Commission on Elementary Schools (\$479,556) together amounted to \$1,081,397. At the current rate, the aggregate loan amount will be reached in the upcoming fiscal year. The annual budget documents for FY 2011 and FY 2012 show decreases in revenue (primarily in the areas of dues and fees), indicating a downward trajectory that is worrisome. The agency has decreased expenses significantly, but it is not clear that this is a viable strategy going forward.

Staff determination: The agency does not meet the requirements of this section. It needs to provide to the Department a clear explanation and description of its financial capacity in light of the downward income trajectory and on-going

indebtedness to the Commission on Higher Education.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided additional information about its financial situation and relationship with the Association and its sister Commission on Higher Education (MSCHE). The agency noted that it has posted operational surpluses for two years running, prior to payment of its apportioned share of annual costs for housing and business operations. The agency states that those costs, which have for two years been paid out of a fund established for that purpose, do not constitute a loan to the agency by either the Association or the MSCHE. It provided documentation in the form of the Memorandum of Understanding (MOU), which assumes that the two condominiums owned by the Association will be sold and stipulates that the loan made by MSCHE to the Association will be paid out of the proceeds from those sales. It is not clear either from the MOU or from the agency's narrative what the consequences would be for the agency if the real estate sales do not transpire in the next year. The agency lists several alternatives that are under discussion for covering its apportioned costs after the fund is depleted in 2012. It also provided a copy of its strategic plan, containing a number of strategies to increase revenue and further reduce expenses. However, until the agency can provide more concrete evidence of its financial health and future prospects, a finding of compliance cannot be made.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has sufficient financial resources to perform its accreditation functions.

§602.16 Accreditation and preaccreditation standards

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -

- **(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:**

(a)(1)(iii) Faculty.

The agency's faculty standards are sufficiently specific in identifying agency expectations for meeting its standards. The agency requires that its accredited institutions have qualified faculty who are qualified, competent, and sufficient in number to meet the needs of the educational program. The agency's standard requires that the institution evaluate faculty performance and use the results to make professional development recommendations. The agency states in its

narrative that staff members must possess at least a Bachelor's degree and/or the appropriate certificate/credential required by state or local laws and regulations. However, Department staff were unable to find that requirement within the agency's written materials.

The agency provided documentation (Exhibit 42) demonstrating that it evaluates its institutions' compliance with its faculty standards. Institutions are required to provide information about each faculty member's education, work experience, and courses currently taught, which is reviewed by the site team.

Staff Determination: The agency does not meet the requirement of this section. It must provide documentation of its requirement (as stated in the narrative) regarding minimum degree or certification requirements for faculty.

Analyst Remarks to Response:

The agency failed to respond to the Department's request for documentation substantiating that the agency's standards require and that the agency evaluates that faculty staff members of its accredited institutions must possess at least a Bachelor's degree and /or appropriate certification and credential required by state or local laws and regulations.

Staff Determination: The agency does not meet the requirement of this section. It must provide documentation of its requirement (as stated in the narrative) regarding minimum degree or certification requirements for faculty.

(a)(1)(vii) Recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising.

The agency's expectations regarding an institution's recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising are specified in two of its standards and a separate policy. The agency's student services standard requires that an institution have written admissions policies and procedures, and that all statements and representations relating to the institution's educational program, services, and resources are clear, accurate, and current. The agency's assessment and evidence of student learning standard includes several indicators that apply to grading practices. The agency's policy on postsecondary, non-degree granting career and technical institutions requires that institutions have clearly stated equitable admissions and credit transfer policies. The agency's narrative elaborates on the agency's expectations regarding student recruiting practices. However, because the agency's standards do not address this aspect of the admissions process, it is not clear how the institution becomes aware of, addresses, and is evaluated on the agency's expectations regarding recruiting practices.

The agency provided documentation, including a self-study and a site evaluation

report (Exhibit 42), demonstrating its application of its standards under this criterion.

Staff Determination: The agency does not meet the requirement of this section. It must include in its standards its requirements regarding recruiting practices.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided its revised Student Services Standards (Exhibit 9 Recruitment, Enrollment, and Placement Services Sec SS.22 - SS.31), which clearly specifies its expectations regarding recruiting. However, the agency has not provided any documentation of its review of an institution on its new standards. The self-study/site evaluation report (exhibit 42), which is based on the 2007 standards, as amended, does not demonstrate that the agency evaluates an institution's recruitment practices.

Staff Determination: The agency needs to provide documentation of its effective review of an institution's compliance with its new student services standard to demonstrate its evaluation of an institution's recruitment practices.

(a)(1)(ix) Record of student complaints received by, or available to, the agency.

The agency has a clearly defined policy addressing student complaints. The agency requires that its accredited institutions ensure students are afforded the opportunity and guidance on submitting complaints by providing a written complaint procedure and making it publicly available to all students. Institutions are required to maintain a record of student complaints for three years. Since the agency grants accreditation for a ten-year period, it is not clear why the record of student complaints is retained for only three years. What is also not clear is whether the agency has an effective mechanism for assessing the institution's record of student complaints. The sample self-study/site team report does not demonstrate that the record was reviewed by the site team.

Staff Determination: The agency does not meet the requirement of this criterion. It must provide evidence that has an effective mechanism for assessing an institution's record of student complaints and that it takes this into consideration in making an accreditation decision.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency has provided revised standards with clearly defined policy addressing the requirements of this section to assess that its accredited institutions ensure students are afforded the opportunity and guidance on submitting complaints by providing a written complaint procedure and making it publicly available to all students and the

agency. The agency's revised policies also eliminated the three years maintenance period previously required by the agency.

While the agency's policies sufficiently address the requirements of this section it has not provided documentation demonstrating that its site review teams have assessed an institution's compliance with the newly revised standards, nor has it demonstrated that site review teams or the commission review the record of student complaints and take this into consideration in making an accrediting decision.

Staff Determination: The agency does not meet the requirement of this section. It must provide evidence that has an effectively assessed an institution's record of student complaints.

(a)(1)(x) Record of compliance with the institution's program responsibilities under Title IV of the Act, based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and any other information that the Secretary may provide to the agency; and

The agency's policies address student loan default rates and audits. The policy does not address program reviews. In addition, the agency's sample self-study/site team report is of an institution that has not yet established eligibility to participate in Title IV programs. The site team report includes some review of the agency with reference to Title IV requirements (e.g., the team recommended strongly that the institution obtain an annual financial audit either in the place of or in addition to the financial review by the institution's accounting firm). However, the site team report is not adequate documentation that the agency verifies that for those institutions for which it is the primary accreditor it evaluates their compliance with their obligations under Title IV, including results of compliance audits and programs reviews.

Staff Determination: The agency does not meet the requirement of this section. The agency must revise its policy to include program reviews. The agency must also provide documentation that verifies that for those institutions for which it is the primary accreditor it evaluates their compliance with their obligations under Title IV, including results of financial or compliance audits and program reviews.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided its revised policies addressing the review of Title IV obligations of its institutions and the requirements of this section. The agency's documentation verifies that for those institutions for which it is the primary accreditor it is required to evaluate the record of compliance with their obligations under Title IV, including results of compliance audits and programs reviews. In addition, MSA-CSS requires each

accredited institution for which the agency serves as gatekeeper, to provide with its annual reports, the default rate for federal student financial aid and a summary of any USDE financial aid reviews. While the agency's policies and procedures are compliant with the requirements of this section, it still has not yet had the opportunity to provide documentation demonstrating that it has reviewed a Title IV institution under the requirements of its revised policies and procedures that address the requirements of this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide documentation that verifies that it has reviewed an institution for which it is the primary accreditor to evaluate its record of compliance with obligations under Title IV, including loan default rate data, and the results of financial or compliance audits and program reviews.

(b) If the agency only accredits programs and does not serve as an institutional accrediting agency for any of those programs, its accreditation standards must address the areas in paragraph (a)(1) of this section in terms of the type and level of the program rather than in terms of the institution.

(c) If the agency has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education or correspondence education, the agency's standards must effectively address the quality of an institution's distance education or correspondence education in the areas identified in paragraph (a)(1) of this section. The agency is not required to have separate standards, procedures, or policies for the evaluation of distance education or correspondence education;

The agency has included in several of its standards specific indicators for distance education delivery. The agency has compliant definitions of distance education and correspondence education for its postsecondary, non-degree granting career and technical institutions. However, the definition of distance education in the Standards for Accreditation of Career and Technical Institutions is not compliant, and it encompasses correspondence. This could be a source of confusion. In addition, the agency's standards address only distance education. The agency needs to clarify whether it seeks to include the evaluation of both distance education and correspondence education in its scope and, if so, develop specific indicators for correspondence education delivery. While the agency's self-study/site team review protocol requires information about, and assessment of, the institution's distance education practices and outcomes, the sample self-study/site team report is for an institution that does not offer any courses or programs via distance education.

Staff Determination: The agency does not meet the requirement of this criterion. If it wishes to include correspondence education in its scope, it must provide information about how its standards should be applied in the evaluation of

correspondence education (such as specific indicators or other guidance) , such as it has for distance education. It must also provide documentation of its effective review of an institution's distance education (and correspondence education) offerings to determine whether they meet the agency's standards.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis for this requirement.

Staff Determination: The agency does not meet the requirement of this criterion. If it wishes to include correspondence education in its scope, the agency must provide information about how its standards should be applied in the evaluation of correspondence education (such as specific indicators or other guidance), such as it has for distance education. It must also provide documentation of its effective review of an institution's distance education (and correspondence education) offerings to determine whether they meet the agency's standards.

§602.17 Application of standards in reaching an accrediting decision.

The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it--

(g) Requires institutions that offer distance education or correspondence education to have processes in place through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the course or program and receives the academic credit. The agency meets this requirement if it--

(1) Requires institutions to verify the identity of a student who participates in class or coursework by using, at the option of the institution, methods such as--

(i) A secure login and pass code;

(ii) Proctored examinations; and

(iii) New or other technologies and practices that are effective in verifying student identity; and

(2) Makes clear in writing that institutions must use processes that protect student privacy and notify students of any projected additional student charges associated with the verification of student identity at the time of registration or enrollment.

The agency has established specific requirements for its accredited institutions offering distance education to have methods/processes to confirm student identity. However, the agency did not provide evidence of the application of its review of this requirement. Also, it is unclear to the Department how the agency's requirements for all of the parts of this section are communicated and made clear to the institution.

Staff determination: The agency does not meet the requirements of this section. It must provide documentation demonstrating that it provides guidance to the institution on the requirements of this section and its expectation for compliance, and that it reviews the processes its institutions that offer distance education or correspondence education (if the agency wants to have correspondence education included in its scope) have in place to verify student identity.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements of this section.

Staff determination: The agency does not meet the requirements of this section. The agency must provide documentation demonstrating that it provides guidance to the institution on the requirements of this section and its expectation for compliance, and that it reviews the processes its institutions that offer distance education or correspondence education (if the agency wants to have correspondence education included in its scope) have in place to verify student identity.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

(b) The agency must demonstrate it has, and effectively applies, a set of monitoring and evaluation approaches that enables the agency to identify problems with an institution's or program's continued compliance with agency standards and that takes into account institutional or program strengths and stability. These approaches must include periodic reports, and collection and analysis of key data and indicators, identified by the agency, including, but not limited to, fiscal information and measures of student achievement, consistent with the provisions of §602.16(f). This provision does not require institutions or programs to provide annual reports on each specific accreditation criterion.

The agency has a multi-faceted approach to monitoring that includes, for example, its review and approval of substantive changes; unannounced visits to institutions; annual reporting on a variety of data indicators including financial and student outcomes data; interim reporting of compliance issues to include management of cohort default rates; follow-up monitoring reports and visits; and

five-year reports that include detailed information about an institution's finances, program-level outcomes data, and progress on achieving goals. The agency provided an annual report template, sample five-year report (Exhibit 40), and its policies to demonstrate that it collects information on a variety of reporting areas including for example, financial, student achievement, retention and job placement data. However, it is not clear how the agency analyzes the information it collects and what follow-up actions it takes.

Staff Determination: The agency does not meet the requirement of this section. It must provide further information and documentation regarding its analysis of the information it collects through its monitoring and the follow-up actions it takes.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements of this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide further information and documentation regarding its analysis of the information it collects through its monitoring and the follow-up actions it takes.

(d) Institutional accrediting agencies must monitor the growth of programs at institutions experiencing significant enrollment growth, as reasonably defined by the agency.

In its narrative, the agency indicates that it has a substantive change policy addressing the monitoring of the growth of programs at institutions experiencing significant enrollment growth. However, the policy 5.6.2.5 merely states that institutions contemplating rapid growth should be in contact with the agency's staff prior to submitting information to the Commission. The agency needs to develop a policy (and procedures) that clearly requires it to monitor growth, by program, at institutions it has identified as having significant growth, and that defines what constitutes "significant growth". In addition, it needs to provide documentation of its effective application of its policy.

Staff Determination: The agency does not meet the requirement of this section. It needs to develop a policy (and procedures) that clearly requires it to monitor growth, by program, at institutions it has identified as having significant growth, and that defines what constitutes "significant growth". In addition, it needs to provide documentation of its effective application of its policy.

Analyst Remarks to Response:

The agency did not provided a response to the staff's draft analysis of the requirements of this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must develop a policy (and procedures) that clearly requires it to monitor growth, by program, at institutions it has identified as having significant growth, and that defines what constitutes "significant growth". In addition, it needs to provide documentation of its effective application of its policy.

§602.20 Enforcement of standards

(a) If the agency's review of an institution or program under any standard indicates that the institution or program is not in compliance with that standard, the agency must--

(1) Immediately initiate adverse action against the institution or program; or

(2) Require the institution or program to take appropriate action to bring itself into compliance with the agency's standards within a time period that must not exceed--

(i) Twelve months, if the program, or the longest program offered by the institution, is less than one year in length;

(ii) Eighteen months, if the program, or the longest program offered by the institution, is at least one year, but less than two years, in length; or

(iii) Two years, if the program, or the longest program offered by the institution, is at least two years in length.

The agency's written policies clearly reflect that the total time allowed for all corrective action begins with identification of a non-compliance with agency standards, and clearly include the timeframes required by this section. The agency provided a notification of accreditation letter (Exhibit 2) to an institution that had been found out of compliance for failing to meet minimum placement, completion and/or licensing rates for various programs. The letter gives the institution one year to come into compliance with several of the indicators, and two years to come into compliance with others. The differences in length of time to demonstrate compliance appear to be a function of the length of the programs. It is within the discretion of the agency to require that an institution come into compliance sooner than the stated maximum timeframe. However, the agency did not provide documentation of the Commission's action on the institution's accreditation at the conclusion of the one-year (two-year) period of time granted to the institution to demonstrate compliance.

Staff Determination: The agency does not meet the requirement of this section. It must provide documentation showing that the agency has taken timely adverse action, including the outcome.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements of this section. Documentation demonstrating application of this requirement is necessary to verify compliance with the criteria.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide documentation showing that the agency has taken timely adverse action, including the outcome.

(b) If the institution or program does not bring itself into compliance within the specified period, the agency must take immediate adverse action unless the agency, for good cause, extends the period for achieving compliance.

MSA-CSS's written policies reflect that the agency may extend, for good cause, an institution's accreditation. The agency policy broadly defines good cause as a "demonstration of good faith efforts to remedy existing deficiencies and a reasonable expectation that deficiencies will be remedied within the period of the extension." While the agency's policy demonstrates that it does not always apply extensions for good cause, it does not make clear the duration of an extension, whether an additional extension might be granted and, if so, under what circumstances, or the agency's expectations regarding the frequency with which good cause extensions would be granted. Good cause extensions are expected to be granted infrequently and judiciously. The agency indicates that it has not had to take adverse action against any of its institutions.

Staff determination: The agency does not meet the requirements of this section. It must amend its policy to include information about the duration of a good cause extension, whether an additional extension might be granted, and the circumstances under which it would be granted, and indicate its expectations regarding the frequency of extensions for good cause.

Analyst Remarks to Response:

MSA-CSS did not provide a response to the staff's draft analysis of the requirements of this section.

The agency's policies needs to make clear the duration of an extension, whether an additional extension might be granted and, if so, under what circumstances, or the agency's expectations regarding the frequency with which good cause extensions would be granted.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policy to include information about the duration of a good cause extension, whether an additional extension might be granted, and

the circumstances under which it would be granted, and indicate its expectations regarding the frequency of extensions for good cause.

§602.22 Substantive change.

(a) If the agency accredits institutions, it must maintain adequate substantive change policies that ensure that any substantive change to the educational mission, program, or programs of an institution after the agency has accredited or preaccredited the institution does not adversely affect the capacity of the institution to continue to meet the agency's standards. The agency meets this requirement if--

(1) The agency requires the institution to obtain the agency's approval of the substantive change before the agency includes the change in the scope of accreditation or preaccreditation it previously granted to the institution; and

The agency provided a summary of its approval of substantive change process clearly establishing that decisions made by the full Commission are required before the change is included in the institution's grant of accreditation. The agency also provided an example of a substantive change request (dated August 2011) and minutes of the October 2010 Commission meeting at which several substantive changes were approved. The documentation is insufficient evidence that the agency approves a substantive change before it is included in the scope of accreditation granted to an institution, since the Commission's action was not on the requested change. In addition, the minutes of the Commission meeting do not specify what substantive change requests have been approved; they only list the names of the institutions.

Staff Determination: The agency does not meet the requirement of this section. It must provide documentation demonstrating that it requires institutions to obtain its approval of a substantive change before the agency includes the change in the institution's grant of accreditation.

Analyst Remarks to Response:

The agency did not provided a response to the staff's draft analysis of the requirements of this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide documentation demonstrating that the Commission requires institutions to obtain its approval of a substantive change before the agency includes the change in the institution's grant of accreditation.

(2) The agency's definition of substantive change includes at least the following types of change:

(i) Any change in the established mission or objectives of the institution.

(ii) Any change in the legal status, form of control, or ownership of the institution.

(iii) The addition of courses or programs that represent a significant departure from the existing offerings of educational programs, or method of delivery, from those that were offered when the agency last evaluated the institution.

(iv) The addition of programs of study at a degree or credential level different from that which is included in the institution's current accreditation or preaccreditation.

(v) A change from clock hours to credit hours.

(vi) A substantial increase in the number of clock or credit hours awarded for successful completion of a program.

(vii) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in title IV, HEA programs, the entering into a contract under which an institution or organization not certified to participate in the title IV, HEA programs offers more than 25 percent of one or more of the accredited institution's educational programs.

The agency provided its policies (5.6 and 6.3.13) addressing the types, and definitions, of substantive changes that require prior commission approval. The policies include all the types of changes required in this section of the criteria. The agency states in its narrative that its policy 5.6 provides examples of the types of substantive changes requiring approval. Because the list is “not exhaustive”, it is not clear how an institution knows whether a proposed change requires approval.

The agency's procedures for reviewing various types of substantive changes are specific to the type of change being proposed. Its process includes the review of a written request and commission approval. However, the agency did not provide documentation to verify the process for review and approval of a variety of substantive change types to demonstrate compliance with this section.

Staff Determination: The agency does not meet the requirement of this section. It must provide documentation to verify the process for review and approval of a variety of substantive change types to demonstrate compliance with this section.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of this requirement.

Documentation demonstrating the application of this process is required to verify the review and approval of a variety of substantive change types to demonstrate compliance with this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide documentation to verify the process for review and approval of a variety of substantive change types to demonstrate compliance with this section.

(ix) The acquisition of any other institution or any program or location of another institution.

(x) The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.

The agency's substantive change policy regarding the acquisition of an institution is contained in 5.6.2.7 "Merger of Institutions or Division into One or More Institutions." The agency's policy provides for the "transference of accredited status" to the merged institution under specific conditions. The agency does not include in its substantive change policy the acquisition of any program or location of another institution, or the addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution.

The agency did not provide any examples to verify the process for review and approval of the substantive change types included within this section, nor indicate that it has not had the opportunity to apply this policy for these types of substantive change.

Staff Determination: The agency does not meet the requirement of this section. It must amend its policy to include all the types of substantive change in paragraphs ix-x and provide documentation to verify the process for review and approval of the substantive change types included within this section, or indicate that it has not had the opportunity to apply its amended policy for these types of substantive change.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements of this section.

The agency needs to include in its substantive change policy the acquisition of any program or location of another institution, or the addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution.

Documentation demonstrating the review and approval of the substantive change types included within this section, or indicate that it has not had the opportunity to apply this policy for these types of substantive change is required to verify application and compliance with this criteria

Staff Determination: The agency does not meet the requirement of this section. The agency must amend its policy to include all the types of substantive change in paragraphs ix-x and provide documentation to verify the process for review and approval of the substantive change types included within this section, or indicate that it has not had the opportunity to apply its amended policy for these types of substantive change.

(3) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

The agency's policies and procedures for reviewing substantive changes are comprehensive, and its policies allow the agency to determine that a new or additional comprehensive review may be required if, during a normal monitoring of the institution, there is an indication that the quality of education is not being met. This concept is specifically included in the agency's substantive change policy 5.6.9 regarding follow-up reporting. However, it is not clear that the agency has defined the conditions/situations that can be applied consistently where a new comprehensive evaluation of the institution is required.

Staff determination: The agency does not meet the requirements of this section. It must clearly define in its substantive change policy under what conditions/situations it would require an institution to undergo a new comprehensive evaluation and provide documentation of its application of its policy.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements for this section. The agency's policies must define the conditions/situations that can be applied consistently when a new comprehensive evaluation of the institution is required. Documentation demonstrating the review and evaluation of an institution's compliance with this

requirement is necessary to verify effective application.

Staff determination: The agency does not meet the requirements of this section. The agency must clearly define in its substantive change policy under what conditions/situations it would require an institution to undergo a new comprehensive evaluation and provide documentation of its application of its policy.

(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date, which is not retroactive, on which the change is included in the program's or institution's accreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership. Except as provided in paragraph (c) of this section, these procedures may, but need not, require a visit by the agency.

In the context of this criterion, the agency's policies require prior approval of substantive changes before implementation and its practices are that substantive changes are effective on the date of the letter notifying the school of the Commission decision. Regarding changes in ownership, specifically, the effective date of approval may be retroactive if the accrediting decision is made by the Commission within 30 days of that change in ownership. The agency has clear policies that prohibit it from making retroactive approvals of substantive changes. However, the agency has not provided documentation, such as sample Commission letters, that attest to the approval of the substantive change upon issuance of an approval letter.

Staff Determination: The agency does not meet the requirement of this section. It must provide documentation of its approval of substantive changes upon issuance of an approval letter.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements of this section. Documentation demonstrating application, such as sample Commission letters, attesting to the approval of the substantive change upon issuance of an approval letter is required to verify compliance with this requirement.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide documentation of its approval of substantive changes upon issuance of an approval letter.

(c) Except as provided in (a)(2)(viii)(A) of this section, if the agency's accreditation of an institution enables the institution to seek eligibility to participate in Title IV, HEA programs, the agency's procedures for the approval of an additional location where at least 50 percent of an educational program is offered must provide for a determination of the institution's fiscal and administrative capacity to operate the additional location. In addition, the agency's procedures must include--

The agency's substantive change policies and procedures for approving a additional location require the institution to include in its application appropriate financial and administrative information to enable the agency to determine that the institution has the fiscal and administrative capacity to operate. However, the agency has not provided documentation demonstrating its review and approval of an institution's fiscal and administrative capacity to operate an additional location.

Staff Determination: The agency does not meet the requirement of this section. It must provide documentation demonstrating its review and approval of an institution's fiscal and administrative capacity to operate an additional location.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of this requirement. Documentation demonstrating its review and approval of an institution's fiscal and administrative capacity to operate an additional location is required to verify compliance with this criterion.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide documentation demonstrating its review and approval of an institution's fiscal and administrative capacity to operate an additional location.

(c)(1) A visit, within six months, to each additional location the institution establishes, if the institution--

- (i) Has a total of three or fewer additional locations;**
 - (ii) Has not demonstrated, to the agency's satisfaction, that it has a proven record of effective educational oversight of additional locations; or**
 - (iii) Has been placed on warning, probation, or show cause by the agency or is subject to some limitation by the agency on its accreditation or preaccreditation status;**
-

MSA-CSS policies and procedures require that it conduct a site visit within six months to an additional location if the institution meets any of the conditions specified in this criterion. However, the agency did not provide any documentation to verify its application of its policy.

Staff Determination: The agency does not meet the requirement of this section. It must provide documentation to verify its application of its compliant policy regarding conducting a site visit to an additional location within six months.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements of this section.

Documentation verifying that it conducted a site visit within six months to an additional location if the institution meets any of the conditions specified in this criterion is required to demonstrate compliance with this section the criteria.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide documentation to verify its application of its compliant policy regarding conducting a site visit to an additional location within six months.

(c)(2) An effective mechanism for conducting, at reasonable intervals, visits to a representative sample of additional locations of institutions that operate more than three additional locations; and

The agency's policy 5.6.2.3 states that it "will conduct, at reasonable intervals, visits to additional locations of institutions that operate more than three additional locations." The policy is insufficiently specific about what it considers to be a "reasonable interval" and the criteria it uses to determine which locations to visit.

Staff Determination: The agency does not meet the requirement of this section. It must provide additional information, in the form of amended policies or procedures, about what it considers to be a reasonable interval and the criteria it uses to determine which locations to visit with an institution that has three or more additional locations. It must also provide documentation of its on-site review of a representative sample of additional locations.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements of this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide additional information, in the form of amended policies or procedures, about what it considers to be a reasonable interval and

the criteria it uses to determine which locations to visit with an institution has three or more additional locations. It must also provide documentation of its on-site review of a representative sample of additional locations.

(c)(3) An effective mechanism, which may, at the agency's discretion, include visits to additional locations, for ensuring that accredited and preaccredited institutions that experience rapid growth in the number of additional locations maintain educational quality.

While the MSA-CSS has policies and procedures for approving/evaluating institutions experiencing rapid growth in the number of additional locations that include a requirement to visit each location, it is not clear to the Department that the agency has defined what it considers to be rapid growth, how it monitors the rapid growth and what guidance it provides to its accredited institutions on this requirement.

Staff determination: The agency does not meet the requirements of this section. It needs to define rapid growth and explain how it monitors its institutions for rapid growth and provides guidance to its institutions on how to stay in compliance with this requirement.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements of this section.

Staff determination: The agency does not meet the requirements of this section. The agency must define rapid growth and explain how it monitors its institutions for rapid growth and provides guidance to its institutions on how to stay in compliance with this requirement.

(d) The purpose of the visits described in paragraph (c) of this section is to verify that the additional location has the personnel, facilities, and resources it claimed to have in its application to the agency for approval of the additional location.

The agency requires a site team to conduct a visit to verify that the additional location has the personnel, facilities, and resources claimed in the institution's request. However, the agency has not provided any documentation, such as site visit reports, to demonstrate a site team's effective review of an additional location in accordance with its policy.

Staff Determination: The agency does not meet the requirement of this section.

It must provide documentation, such as site visit reports, to demonstrate its site teams' effective review of an additional location in accordance with its policy.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of this requirement.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide documentation, such as site visit reports, to demonstrate its site teams' effective review of an additional location in accordance with its policy.

§602.23 Operating procedures all agencies must have.

(c) The accrediting agency must--

(1) Review in a timely, fair, and equitable manner any complaint it receives against an accredited institution or program that is related to the agency's standards or procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with published procedures, it ensures that the institution or program has sufficient opportunity to provide a response to the complaint;

(2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review; and

(3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself and take follow-up action, as appropriate, based on the results of its review.

The agency provided its complaint policies and review procedures for processing complaints against its accredited institutions and itself. The agency's process provides clear instructions and defines reasonable timelines for each step of the process. As documentation, the agency provided a copy of a complaint against one of its accredited institutions that it is currently reviewing. This is not sufficient documentation. The agency must provide complete documentation of its review of a complaint, including the written notifications to the institution and complainant throughout the process, and the resolution.

Staff Determination: The agency does not meet the requirement of this section. It must provide complete documentation of its review of a complaint, including the written notifications to the institution and complainant throughout the process, and the resolution.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of this requirement.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide complete documentation of its review of a complaint, including the written notifications to the institution and complainant throughout the process, and the resolution.

(d) If an institution or program elects to make a public disclosure of its accreditation or preaccreditation status, the agency must ensure that the institution or program discloses that status accurately, including the specific academic or instructional programs covered by that status and the name, address, and telephone number of the agency.

The agency's public disclosure policies and procedures are comprehensive, clear and specific to the requirements of this section. However, the agency did not provide any documentation of the effective application of its policy, such as a sample institution disclosure statement that is in accord with its policy.

Staff determination: The agency does not meet the requirements of this section. It needs to provide documentation demonstrating its application of this requirement.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of this requirement.

Documentation demonstrating the effective application of its policy, such as a sample institution disclosure statement that is in accord with its policy, is required to verify compliance with this criterion.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide documentation demonstrating its application of this public disclosure requirement.

(e) The accrediting agency must provide for the public correction of incorrect or misleading information an accredited or preaccredited institution or program releases about—

(1) The accreditation or preaccreditation status of the institution or

program;

(2) The contents of reports of on-site reviews; and

(3) The agency's accrediting or preaccrediting actions with respect to the institution or program.

MSA-CSS's policies provide for the public correction of incorrect or misleading information that a member institution releases about itself with regard to its accreditation status. However, the agency's policy does not include the incorrect or misleading information regarding the contents of site visit reports and the agency's accrediting actions with respect to the institution. The agency has not provided any documentation of its application of its policy, such as a letter to an institution concerning correction of information, or indicated that it has not had an opportunity to apply its policy.

Staff Determination: The agency does not meet the requirement of this section. It must amend its policy to provide for public correction regarding the contents of site visit reports and the agency's accrediting actions with respect to the institution. It must also provide documentation of its application of its disclosure policy or indicate that it has not had an opportunity to apply its policy.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements of this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must amend its policy to provide for public correction regarding the contents of site visit reports and the agency's accrediting actions with respect to the institution. It must also provide documentation of its application of its disclosure policy or indicate that it has not had an opportunity to apply its policy.

§602.24 Additional procedures certain institutional accreditors must have.

If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:

(a) Branch campus.

(1) The agency must require the institution to notify the agency if it plans to establish a branch campus and to submit a business plan for the branch campus that describes--

- (i) The educational program to be offered at the branch campus;**
- (ii) The projected revenues and expenditures and cash flow at the branch campus; and**

(iii) The operation, management, and physical resources at the branch campus.

(2) The agency may extend accreditation to the branch campus only after it evaluates the business plan and takes whatever other actions it deems necessary to determine that the branch campus has sufficient educational, financial, operational, management, and physical resources to meet the agency's standards.

(3) The agency must undertake a site visit to the branch campus as soon as practicable, but no later than six months after the establishment of that campus.

The agency's written policies and procedures for approving a branch campus includes submission of a business plan describing all the items outlined under subsection (1) of this section. The agency's policy also requires a site visit to a branch campus within six months of its establishment. The agency did not provide any documentation of its application of its policy, to include its evaluation of the business plan and other actions it took to determine that the branch campus can meet the agency's standards.

Staff Determination: The agency does not meet the requirement of this section. It must demonstrate its effective application of its branch campus policies and procedures.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of this requirement.

Documentation of the agency's application of its policy, to include its evaluation of the business plan and other actions it took to determine that the branch campus can meet the agency's standards is required to verify compliance with this criteria.

Staff Determination: The agency does not meet the requirement of this section. The agency must demonstrate its effective application of its branch campus policies and procedures.

(b) Change of ownership.

The agency must undertake a site visit to an institution that has undergone a change of ownership that resulted in a change of control as soon as practicable, but no later than six months after the change of ownership.

The agency's policies and procedures for a change in ownership are clear and include that the agency will conduct a site visit within six months of the change of ownership. However, the agency did not provide any documentation of its application of its policy.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate its effective application of its change in ownership policies and procedures.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements to this section.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate its effective application of its change in ownership policies and procedures.

(c) Teach-out plans and agreements.

(1) The agency must require an institution it accredits or preaccredits to submit a teach-out plan to the agency for approval upon the occurrence of any of the following events:

(i) The Secretary notifies the agency that the Secretary has initiated an emergency action against an institution, in accordance with section 487(c)(1)(G) of the HEA, or an action to limit, suspend, or terminate an institution participating in any title IV, HEA program, in accordance with section 487(c)(1)(F) of the HEA, and that a teach-out plan is required.

(ii) The agency acts to withdraw, terminate, or suspend the accreditation or preaccreditation of the institution.

(iii) The institution notifies the agency that it intends to cease operations entirely or close a location that provides one hundred percent of at least one program.

(iv) A State licensing or authorizing agency notifies the agency that an institution's license or legal authorization to provide an educational program has been or will be revoked.

The agency's teach out policies directs its institutions to submit a teach-out plan containing mandatory information and documentation defined by the agency. However, the policy does not include that the agency requires an institution to submit a teach-out plan for approval upon the occurrence of the specific events included in subsections i-iv of this criterion.

Staff Determination: The agency does not meet the requirement of this section. It must amend its policies on teach-out plans to require an institution it accredits to submit a teach-out plan for approval upon the occurrence of the specific events included in subsections i-iv of this criterion.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements to this section.

The agency's policies must include that the agency requires an institution to submit a teach-out plan for approval upon the occurrence of the specific events included in subsections i-iv of this criterion.

Staff Determination: The agency does not meet the requirement of this section. The agency must amend its policies on teach-out plans to require an institution it accredits to submit a teach-out plan for approval upon the occurrence of the specific events included in subsections i-iv of this criterion.

(2) The agency must evaluate the teach-out plan to ensure it provides for the equitable treatment of students under criteria established by the agency, specifies additional charges, if any, and provides for notification to the students of any additional charges.

The agency has written policy regarding teach out plans and agreements. A closing institution is required to submit a substantive change request that must include a teach-out plan that provides for the equitable treatment of students and draft or finalized teach-out agreement(s) the institution has entered into. The agency's policies and procedures specify that students need to be provided with reasonable opportunities to complete their education, and include a list of elements that the required teach-out agreement(s) must address. Among the required elements are that the students are provided, without additional charge, all the instruction promised by the closing institution.

However, the agency was not clear on what the teach-out plan should include, nor that it has criteria to assess and determine that the teach-out plan provides for the equitable treatment of students. It is also not clear how the agency provides guidance to its institutions on the requirements of this section, such as establishing a process and requiring a plan by the institution including an explanation, accompanied by appropriate supporting documentation and timelines of how the school would notify students in the event of closure; and a demonstration that the delivery of training and services to students will not be materially disrupted and obligations to students will be timely met. In addition, the agency did not provide any documentation of the application of its policy,

such as sample teach-out plans and agreements that the agency has reviewed, or stated that it has not had cause to review any teach-out plans/agreements.

Staff determination: The agency does not meet the requirements of this section. It needs to provide a review process that includes criteria by which it will assess and determine that a teach-out plan provides for the equitable treatment of students and on what basis it determines, for example, that the teach out plan for notifications and additional charges are appropriate and reasonable. It also needs to provide documentation of the application of its policy, such as a sample teach-out plan/agreement that the agency has reviewed, or state that it has not had cause to review any teach-out plans/agreements.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements to this section.

Staff determination: The agency does not meet the requirements of this section. The agency must provide a review process that includes criteria by which it will assess and determine that a teach-out plan provides for the equitable treatment of students and on what basis it determines, for example, that the teach out plan for notifications and additional charges are appropriate and reasonable. It also needs to provide documentation of the application of its policy, such as a sample teach-out plan/agreement that the agency has reviewed, or state that it has not had cause to review any teach-out plans/agreements.

(3) If the agency approves a teach-out plan that includes a program that is accredited by another recognized accrediting agency, it must notify that accrediting agency of its approval.

The agency's policies do not include that it will notify another accrediting agency should the agency approve a teach-out plan that includes an institution that is accredited by another agency.

Staff Determination: The agency does not meet the requirement of this section. It needs to amend its policy to include that it will notify another accrediting agency should the agency approve a teach-out plan that includes an institution that is accredited by another agency.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements of this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must amend its policy to include that it will notify another accrediting

agency should the agency approve a teach-out plan that includes an institution that is accredited by another agency.

(5) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, with another institution to submit that teach-out agreement to the agency for approval. The agency may approve the teach-out agreement only if the agreement is between institutions that are accredited or preaccredited by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that--

(i) The teach-out institution has the necessary experience, resources, and support services to--

(A) Provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the institution that is ceasing operations either entirely or at one of its locations; and

(B) Remain stable, carry out its mission, and meet all obligations to existing students; and

(ii) The teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances and that it will provide students with information about additional charges, if any.

MSA-CSS's teach-out requirements include the requirement of this section of the criteria -- that the teach-out agreement may only be between institutions that have recognized accreditation.

However, it remains unclear how the agency determined that the teach-out agreement would, in actuality, provide for the equitable treatment of students by ensuring the necessary experience, resources, and support services, would remain stable and meet all obligations, provide an educational program that meets quality standards and is similar in content, structure and schedule. While the institutions providing the teach-out is required to agree that it will meet these requirements, the agency policies and procedures do not provide sufficient insight into how the agency will assess the agreement and on what basis it determines that there is sufficient evidence that these quality parameters are met.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has and applies criteria that it has identified to be effective indicators for assessing that a teach-out institution meets the quality parameters identified in this criterion.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements to this section.

The agency policies and procedures must provide sufficient insight into how the agency will assess the agreement and on what basis it determines that there is sufficient evidence that quality parameters are met.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and applies criteria that it has identified to be effective indicators for assessing that a teach-out institution meets the quality parameters identified in this criterion.

(d) Closed Institution.

If an institution the agency accredits or preaccredits closes without a teach-out plan or agreement, the agency must work with the Department and the appropriate State agency, to the extent feasible, to assist students in finding reasonable opportunities to complete their education without additional charges.

The agency's policies do not include this provision.

Staff Determination: The agency does not meet the requirement of this section. It must amend its policies to include that if an institution the agency accredited closes without a teach-out plan or agreement, the agency will work with the Department and the appropriate States agency to assist students in finding reasonable opportunities to complete their education without additional charge.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements of this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must amend its policies to include that if an institution the agency accredited closes without a teach-out plan or agreement, the agency will work with the Department and the appropriate States agency to assist students in finding reasonable opportunities to complete their education without additional charge.

(e) Transfer of credit policies.

The accrediting agency must confirm, as part of its review for initial accreditation or preaccreditation, or renewal of accreditation, that the institution has transfer of credit policies that--

(1) Are publicly disclosed in accordance with §668.43(a)(11); and

(2) Include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.

(Note: This criterion requires an accrediting agency to confirm that an institution's teach-out policies are in conformance with 668.43 (a) (11). For your convenience, here is the text of 668.43(a) (11):

“A description of the transfer of credit policies established by the institution which must include a statement of the institution's current transfer of credit policies that includes, at a minimum –

(i) Any established criteria the institution uses regarding the transfer of credit earned at another institution; and

(ii) A list of institutions with which the institution has established an articulation agreement.”)

In its narrative, the agency references its Student Services Standard, indicator 31, as addressing this section of the criteria. However, that indicator is one of several that fall under the heading “Indicators for institutions that provide all or part of their educational program by a distance modality.” The template for the self-study document and report of visiting team reflects this same limited application of the indicator. This criterion requires that the agency must confirm that the institution has transfer of credit policies that are publicly disclosed and that include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education, and a list of the institutions with which the institution has established articulation agreements. The agency does not appear to have policies or procedures that address this requirement.

Staff Determination: The agency does not meet the requirement of this section. It must provide documentation that it confirms that the institution has transfer of credit policies that are publicly disclosed and that include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education, and a list of the institutions with which the institution has established articulation agreements.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements to this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide documentation that it confirms that the institution has transfer of credit policies that are publicly disclosed and that include a statement

of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education, and a list of the institutions with which the institution has established articulation agreements.

(2) In reviewing and evaluating an institution's policies and procedures for determining credit hour assignments, an accrediting agency may use sampling or other methods in evaluation, sufficient to comply with paragraph (f)(1)(i)(B) of this section.

While the agency policies include the regulatory definition of a credit hour, the Department could not verify any procedures or mechanism within their policies to review an institution's assignment of credit hours. The documentation provided by the agency did not include the section of its policies (6.3.12.6) referenced in the narrative.

Staff determination: The agency does not meet the requirement of this section. It needs to document that it has policies and procedures and a mechanism in place to review an institution's policies and procedures for determining credit hours.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements to this section.

The agency must have written procedures or mechanism within their policies to review an institution's assignment of credit hours.

Staff determination: The agency does not meet the requirement of this section. The agency must document that it has policies and procedures and a mechanism in place to review an institution's policies and procedures for determining credit hours.

(3) The accrediting agency must take such actions that it deems appropriate to address any deficiencies that it identifies at an institution as part of its reviews and evaluations under paragraph (f)(1)(i) and (ii) of this section, as it does in relation to other deficiencies it may identify, subject to the requirements of this part.

While the agency policies defined credit hour the Department could not verify any procedures or mechanism within their policies to identify or review any deficiencies as required by this section. The agency did not provide any documentation of its review or any actions it has taken to address identified deficiencies.

Staff determination: The agency does not meet the requirement of this section. It needs to document that it has policies and procedures and a mechanism in place to evaluate the requirements of this section. It must also provide and provide documentation of its review and action it has taken to address identified deficiencies.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements to this section.

The agency must have procedures or mechanism within their policies to identify or review any deficiencies as required by this section.

Staff determination: The agency does not meet the requirement of this section. The agency must document that it has policies and procedures and a mechanism in place to evaluate the requirements of this section. It must also provide documentation of its review and action it has taken to address identified deficiencies.

(4) If, following the institutional review process under this paragraph (f), the agency finds systemic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at the institution, the agency must promptly notify the Secretary.

While the agency policies defined credit hour the Department could not verify any policy or procedures to notify the Secretary of an institution's systemic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at the institution.

Staff determination: The agency does not meet the requirement of this section. It needs to document that it has policies and procedures to notify the Secretary of an institution's systemic noncompliance with the agency's credit hour policies or significant noncompliance regarding one or more programs at the institution. It must also provide documentation of its application of its policy, or indicate it has not had the opportunity to do so.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements of this section.

The agency must have policies and procedures to notify the Secretary of an institution's systemic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at the institution as required by this criterion.

Staff determination: The agency does not meet the requirement of this section. The agency must document that it has policies and procedures to notify the Secretary of an institution's systemic noncompliance with the agency's credit hour policies or significant noncompliance regarding one or more programs at the institution. It must also provide documentation of its application of its policy, or indicate it has not had the opportunity to do so.

§602.25 Due process

(h)(1) The agency must provide for a process, in accordance with written procedures, through which an institution or program may, before the agency reaches a final adverse action decision, seek review of new financial information if all of the following conditions are met:

(i) The financial information was unavailable to the institution or program until after the decision subject to appeal was made.

(ii) The financial information is significant and bears materially on the financial deficiencies identified by the agency. The criteria of significance and materiality are determined by the agency.

(iii) The only remaining deficiency cited by the agency in support of a final adverse action decision is the institution's or program's failure to meet an agency standard pertaining to finances.

(h)(2) An institution or program may seek the review of new financial information described in paragraph (h)(1) of this section only once and any determination by the agency made with respect to that review does not provide a basis for an appeal.

The Department is not clear that the agency's appeals process includes the requirements that it allow the presentation of new financial information as required by this section of the criteria. The agency's policies are conflicting on the possibility of submitting new evidence. Section 1.4.4.10 states in the second subparagraph "no evidence not already properly in the record on appeal shall be accepted". Two paragraphs later is the statement: "Notwithstanding the foregoing, Appellant may submit evidence demonstrating that a substantial change of circumstances has occurred which, had it occurred prior to the Commission's action, would likely have resulted in a different accrediting action."

Staff determination: The agency does not meet the requirements of this section. The agency needs to include in its policies and procedures (within or outside of the appeals process) that it will allow the presentation of new financial information as required by this section of the criteria. It must also amend its appeals policy to make clear whether new evidence may be submitted in an appeal.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided its revised Policy 1.4, Appeals to Adverse Accrediting Actions (Exhibit #1), which it states addresses the requirements of this criterion by allowing an institution to submit new financial information during an appeal. The policy states that "except as otherwise specifically set forth herein, appeals from an Adverse Accrediting Action shall be based solely on the evidence and record before the Commission(s), inclusive of any evidence of substantially changed circumstances and/or financial information that pertains to the basis(es) upon which an Adverse Accrediting Action was made." It is not clear that an institution could present new evidence, including financial, that the Commission hadn't seen. While the review of the new information does not need to be by the appeals panel, this policy does not clearly articulate an opportunity that is separate from the initial decision to present new financial evidence.

Furthermore, this criterion requires that an agency have a process to consider new financial information if three conditions are met. None of these conditions is included in the agency's revised policy. In addition, the policy does not provide clear written procedures through which an institution may seek review of new financial information, nor does it make clear that such a review can take place only one time and that any determination by the agency does not provide a basis for appeal.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide for a process, in accordance with written procedures, through which an institution may seek review of new financial information when the three conditions specified in this criterion are met. It must also make clear that this is a one-time review and that the agency's determination does not provide a basis for an appeal.

§602.26 Notification of accrediting decisions

The agency must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. The agency meets this requirement if the agency, following its written procedures--

(a) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public no later than 30 days after it makes the decision:

(1) A decision to award initial accreditation or preaccreditation to an institution or program.

(2) A decision to renew an institution's or program's accreditation or preaccreditation;

The agency's policies require it to notify the Secretary of Education, State departments of education and other relevant state agencies of positive accreditation decisions within the required timeframe. However, the policies do not include notifying appropriate accrediting agencies or the public. Policy 8.2 merely states that the Commission shall routinely share information with other accrediting agencies, and policy 6.3 applies only to public notification regarding adverse decisions.

The agency provided documentation of its timely notification to the public (by means of its website) and state agencies. However, the documentation provided by the agency of its notification to relevant accrediting agencies (transmittal email) is inadequate as it does not include the names of the individuals to whom it was sent nor the date. .

Staff Determination: The agency does not meet the requirements of this section. The agency needs to amend its policies to make clear that it will provide written notice of its positive accrediting decisions to relevant accrediting agencies and the public within the required timeframe and provide documentation of its application of its policy.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency provided its revised policies requiring it to provide written notice of its positive accrediting decisions to all the entities listed in this criterion, including relevant accrediting agencies and the public, within the required timeframe. The agency's notification policies are in two separate documents (exhibits 23 and 25), one entitled "Policy 8.1 - Relationships with Governmental Agencies" and the other entitled "Policy 1.1 - Code of Good Practice in Accreditation." The two policies are not consistent. Policy 8.1 includes the required 30 day timeframe for notifying the U.S. Department of Education, State Departments of Education and other state agencies. The list of actions for state entities does not include a grant of continued accreditation. In addition, this policy does not include notifications to other accrediting agencies or to the public. Policy 1.1 includes notification to State Departments of Education, the U.S. Department of Education, and recognized accrediting agencies, but does not include a timeframe nor provide for notification of the public. Neither policy is compliant with the requirements of this criterion.

The agency provided copies of two letters notifying the U.S. Department of Education of accrediting actions. One of the letters is dated more than 30 days after the decision meeting; there is insufficient evidence in the other letter to determine whether the 30 day timeframe was meant. The other documentation (an undated email to unspecified "colleagues" and letters to State officials) is also insufficient to demonstrate compliance with the requirements of this criterion.

Staff Determination: The agency does not meet the requirement of this section. The agency must revise its policies to make them consistent and to include notification to all the entities listed in this criterion of positive actions no later than 30 days after it makes the decision. It must also provide documentation of its application of its policy.

(b) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision, but no later than 30 days after it reaches the decision:

- (1) A final decision to place an institution or program on probation or an equivalent status.
 - (2) A final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program;
 - (3) A final decision to take any other adverse action, as defined by the agency, not listed in paragraph (b)(2) of this section;**
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The agency's policies require it to notify the Secretary of Education of negative accreditation decisions within the required timeframe. State departments of education and other relevant states agencies are to be notified within 30 days of the decision which is not in accordance with this criterion. In addition, the agency's policies do not include notifying appropriate accrediting agencies of negative decisions within the regulatory timeframe. Policy 8.2 merely states that the Commission shall routinely share information with other accrediting agencies. As noted in 602.26(a), the documentation provided by the agency of its notification to relevant accrediting agencies is inadequate.

Staff Determination: The agency does not meet the requirement of this section. The agency needs to amend its policies to make clear that it will provide written notice of its negative accrediting decisions to appropriate State licensing or authorizing agencies, and appropriate accrediting agencies within the required timeframe and provide documentation of its application of its policy.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements to this section. However, it did provide its revised policies regarding notification in its response to 602.26(a). As noted in the analysis of 602.26(a), the agency's policies are inconsistent. With regard to notification of negative actions, Policy 8.1 states that the U.S. Secretary of Education and the institution will be notified at the same time and within 30 days of the Commission actions and that the appropriate state departments of education and other relevant state agencies will be notified within 30 days of the Commission's actions (but not necessarily at the same time the institution is notified). In

addition, this policy does not include notifications to other accrediting agencies. Policy 1.1 includes notification to State Departments of Education, the U.S. Department of Education, and recognized accrediting agencies, but does not include a timeframe. Neither policy is compliant with the requirements of this criterion.

As discussed in the analysis of 602.26(a), the documentation provided by the agency is insufficient to demonstrate application of its notification policies.

Staff Determination: The agency does not meet the requirement of this section. The agency must amend its policies to make clear that it will provide written notice of its negative accrediting decisions to appropriate State licensing or authorizing agencies, and appropriate accrediting agencies at the same time it notifies the institution, within the required timeframe following commission action, and provide documentation of its application of its policy.

(c) Provides written notice to the public of the decisions listed in paragraphs (b)(1), (b)(2) and (b)(3) of this section within 24 hours of its notice to the institution or program;

MSA-CSS policies (6.3.14) require it to provide notification to the public of final accrediting decisions to deny or revoke accreditation within 24 hours thus complying with the requirements of the criterion. The agency states it uses its Web site to post Commission actions within the 24-hour timeframe. However, it did not provide documentation of its timely notification - such as a screen shot with a time/date stamp, and letter to an institution.

Staff Determination: The agency does not meet the requirement of this section. It must provide documentation of its timely notification to the public of final negative accrediting decisions.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements to this section. In its original narrative, the agency indicated that it informs the public of Commission action by means of its newsletter. The agency provided a copy of its newsletter. However, it is not possible to ascertain when it was made available to the public on the agency's website.

Staff Determination: The agency does not meet the requirement of this section. The agency must provide documentation of its timely notification to the public of final negative accrediting decisions.

((d) For any decision listed in paragraph (b)(2) of this section, makes available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after the decision, a brief statement summarizing the reasons for the agency's decision and the official comments that the affected institution or program may wish to make with regard to that decision, or evidence that the affected institution has been offered the opportunity to provide official comment; and

The agency's policies require it to notify the Secretary, State departments of education and other relevant state agencies of final decisions to take adverse action or to put an institution on probation at the same time it notifies the institution, and to include a statement summarizing the Commission's decision, the reasons for it, and the comments made by the affected institution. However, it is not possible for the comments to be included in the initial notification since the institution would not have had an opportunity to submit comments. In addition, this criterion requires that if the institution does not submit official comments, the agency must provide evidence that the institution was offered the opportunity to do so.

The agency's policies regarding notification to the public of an adverse accreditation action (6.3.14) do not include the requirements of this criterion.

Staff Determination: The agency does not meet the requirement of this section. The agency needs to amend its policies to require it to make available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after a final decision to take adverse action, a brief statement summarizing the reasons for the decision and the official comments that the affected institution made, or evidence that the institution was offered the opportunity to provide official comment. It must also provide documentation of application of its policies.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements to this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must amend its policies to require it to make available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after a final decision to take adverse action, a brief statement summarizing the reasons for the decision and the official comments that the affected institution made, or evidence that the institution was offered the opportunity to provide official comment. It must also provide documentation of application of its policies.

(e) Notifies the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and, upon request, the public if an accredited or preaccredited institution or program--

(1) Decides to withdraw voluntarily from accreditation or preaccreditation, within 30 days of receiving notification from the institution or program that it is withdrawing voluntarily from accreditation or preaccreditation; or

(2) Lets its accreditation or preaccreditation lapse, within 30 days of the date on which accreditation or preaccreditation lapses.

The agency's policies require it to notify the Secretary of Education, State departments of education and other relevant state agencies when an institution voluntarily withdraws or lets its accreditation lapse within the required timeframe. However, the policies do not include notifying appropriate accrediting agencies. Policy 8.2 merely states that the Commission shall routinely share information with other accrediting agencies.

The agency's policies do not provide for providing the public, upon request, information about an institution that voluntarily withdraws or lets its accreditation lapse.

The agency did not provide any documentation of its notification.

Staff Determination: The agency does not meet the requirement of this criterion. It needs to amend its policies to make clear that it will provide written notice of its negative accrediting decisions to appropriate State licensing or authorizing agencies, and appropriate accrediting agencies within the required timeframe, and that it will provide information to the public, upon request. It must also provide documentation of its application of its policies or indicate it has had no occasion to apply its policies.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements to this section.

Staff Determination: The agency does not meet the requirement of this criterion. The agency must amend its policies to make clear that it will provide written notice of its negative accrediting decisions to appropriate State licensing or authorizing agencies, and appropriate accrediting agencies within the required timeframe, and that it will provide information to the public, upon request. It must also provide documentation of its application of its policies or indicate it has had no occasion to apply its policies.

§602.27 Other information an agency must provide the Department.

(a) The agency must submit to the Department--

(1) A copy of any annual report it prepares;

(2) A copy, updated annually, of its directory of accredited and preaccredited institutions and programs;

(3) A summary of the agency's major accrediting activities during the previous year (an annual data summary), if requested by the Secretary to carry out the Secretary's responsibilities related to this part;

(4) Any proposed change in the agency's policies, procedures, or accreditation or preaccreditation standards that might alter its--

(i) Scope of recognition, except as provided in paragraph (a)(5) of this section; or

(ii) Compliance with the criteria for recognition;

(5) Notification that the agency has expanded its scope of recognition to include distance education or correspondence education as provided in section 496(a)(4)(B)(i)(I) of the HEA. Such an expansion of scope is effective on the date the Department receives the notification;

The agency provided its policies (8.1.1.4) requiring it to provide the Secretary with most of the information required by this section. However, the policy does not include the requirement in paragraph 4 regarding proposed changes in the agency's policies, procedures or standards that might alter its scope or compliance with the criteria for recognition.

Staff Determination: The agency does not meet the requirement of this section. It must amend its policy to include that it will provide the Department with information regarding proposed changes in its policies, procedures or standards.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements to this section.

The agency must include in its policies the requirement in paragraph 4 regarding proposed changes in the agency's policies, procedures or standards that might alter its scope or compliance with the criteria for recognition.

Staff Determination: The agency does not meet the requirement of this section. The agency must amend its policy to include that it will provide the Department

with information regarding proposed changes in its policies, procedures or standards.

(a)(6) The name of any institution or program it accredits that the agency has reason to believe is failing to meet its Title IV, HEA program responsibilities or is engaged in fraud or abuse, along with the agency's reasons for concern about the institution or program; and

(a)(7) If the Secretary requests, information that may bear upon an accredited or preaccredited institution's compliance with its Title IV, HEA program responsibilities, including the eligibility of the institution or program to participate in Title IV, HEA programs.

(b) If an agency has a policy regarding notification to an institution or program of contact with the Department in accordance with paragraph (a)(6) or (a)(7) of this section, it must provide for a case by case review of the circumstances surrounding the contact, and the need for the confidentiality of that contact. Upon a specific request by the Department, the agency must consider that contact confidential.

The agency's policies require it to contact the Department when it has concerns about an institution's compliance with Title IV requirements in cases of possible fraud and abuse of federal funds and to provide information, upon request, that may bear upon an accredited institution's compliance with Title IV responsibilities. However, the Department is not clear that the agency's policies address paragraph (b) of this section specifically in regards to confidentiality.

Staff determination: The agency does not meet the requirements of this section. It needs to assure that any policies it has regarding notification to an institution of contact with the Department regarding fraud and abuse of federal funds include the requirements of paragraph (b) of this section.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements to this section.

The agency's policies must address paragraph (b) of this section specifically in regards to confidentiality.

Staff determination: The agency does not meet the requirements of this section. The agency must assure that any policies it has regarding notification to an institution of contact with the Department regarding fraud and abuse of federal funds include the requirements of paragraph (b) of this section.

§602.28 Regard for decisions of States and other accrediting agencies.

(b) Except as provided in paragraph (c) of this section, the agency may not grant initial or renewed accreditation or preaccreditation to an institution, or a program offered by an institution, if the agency knows, or has reasonable cause to know, that the institution is the subject of--

(1) A pending or final action brought by a State agency to suspend, revoke, withdraw, or terminate the institution's legal authority to provide postsecondary education in the State;

(2) A decision by a recognized agency to deny accreditation or preaccreditation;

(3) A pending or final action brought by a recognized accrediting agency to suspend, revoke, withdraw, or terminate the institution's accreditation or preaccreditation; or

(4) Probation or an equivalent status imposed by a recognized agency.

The Department could not determine that the agency has policies regarding granting initial or renewal of accreditation to an institution during the time that it is the subject of negative actions by agencies listed in this section, or if negative actions by bodies listed in this section occur would the agency initiate a review to determine the institution's ability to continue to meet the agency's standards. The agency provided no documentation to support its compliance with this section.

Staff determination: The agency does not meet the requirements of this section. It needs to provide policies and procedures, and documentation of their effective application, for addressing the requirements of this section.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements to this section

Staff determination: The agency does not meet the requirements of this section. The agency must provide policies and procedures, and documentation of their effective application, for addressing the requirements of this section.

(c) The agency may grant accreditation or preaccreditation to an institution or program described in paragraph (b) of this section only if it provides to the Secretary, within 30 days of its action, a thorough and reasonable explanation, consistent with its standards, why the action of the other body does not preclude the agency's grant of accreditation or preaccreditation.

The agency's policy 8.1.1.3 requires it to provide a thorough explanation to the Secretary, consistent with its standards, why the denial of an institution's accreditation by another accrediting or state agency does not preclude the commission from granting candidacy or accreditation to the institution. However, the policy does not include that the explanation must be provided within 30 days of its action, nor does it cover all of the types of negative actions subject to this provision. In addition, the agency did not provide any documentation of its application of its policy.

Staff determination: The agency does not meet the requirements of this section. It must amend its policy to include all the types of negative actions and the required timeframe for providing an explanation to the Secretary of its decision to grant accreditation to an institution that is subject to a negative action by a State agency or accrediting agency. It must also provide documentation of its application of its policy or indicate it has not had an opportunity to apply it.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements to this section.

The agency's policy must include that the explanation must be provided within 30 days of its action, and all of the types of negative actions subject to this provision.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policy to include all the types of negative actions and the required timeframe for providing an explanation to the Secretary of its decision to grant accreditation to an institution that is subject to a negative action by a State agency or accrediting agency. It must also provide documentation of its application of its policy or indicate it has not had an opportunity to apply it.

(d) If the agency learns that an institution it accredits or preaccredits, or an institution that offers a program it accredits or preaccredits, is the subject of an adverse action by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency, the agency must promptly review its accreditation or preaccreditation of the institution or program to determine if it should also take adverse action or place the institution or program on probation or show cause.

The agency has not demonstrated that it has policies and procedures in place verifying that it reviews its accreditation of an institution when it is involved in the adverse action of another accrediting agency.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has written policies directing the agency to promptly review its accreditation of an institution that is the subject of adverse action, or placed on probation or equivalent status, by another accreditor to determine if it should also take an adverse action or place the institution on probation or show cause. It must also provide documentation of its application of its policy.

Analyst Remarks to Response:

The agency did not provide a response to the staff's draft analysis of the requirements to this section.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has written policies directing the agency to promptly review its accreditation of an institution that is the subject of adverse action, or placed on probation or equivalent status, by another accreditor to determine if it should also take an adverse action or place the institution on probation or show cause. It must also provide documentation of its application of its policy.

(e) The agency must, upon request, share with other appropriate recognized accrediting agencies and recognized State approval agencies information about the accreditation or preaccreditation status of an institution or program and any adverse actions it has taken against an accredited or preaccredited institution or program.

The agency has a written policy (8.2.8) requiring it to routinely share information with other accrediting agencies. It is not clear that the agency shares information with state agency and other accrediting agencies about any adverse action against its accredited institutions, upon request. The policy does not define the types of information to be shared.

Staff Determination: The agency does not meet the requirement of this section. It needs to amend its policy to make clear that it will, upon request, share information with other accrediting agencies and state approval agencies about the accreditation or preaccreditation status of an institution and any adverse actions it has taken against an accredited or preaccredited institution.

Analyst Remarks to Response:

The agency did not respond to the staff's draft analysis of the requirements to this section.

Staff Determination: The agency does not meet the requirement of this section. The agency must amend its policy to make clear that it will, upon request, share information with other accrediting agencies and state approval agencies about the accreditation or preaccreditation status of an institution and any adverse actions it has taken against an accredited or preaccredited institution.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.